

MAR 19 2013

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

PIPER A. ROUNTREE,) CASE NO. 7:11CV00572

Plaintiff,)
v.) **ORDER**

HAROLD CLARKE, ET AL.,) By: James C. Turk
Defendants.) Senior United States District Judge

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

as follows:

1. Plaintiff's motion for leave to file a second amended complaint (ECF No. 31) is **GRANTED**, and the clerk is **DIRECTED** to file copies of the previously proposed second amended complaint (ECF No. 31-1) and incorporated exhibits (ECF Nos. 3-1 through 3-8; and 23-2, at pp. 1-13) as a separate document styled as "second amended complaint";
 2. Defendants' motion for summary judgment under 42 U.S.C. § 1997e(a) on the ground of failure to exhaust available administrative remedies is **DENIED WITHOUT PREJUDICE** to further proceedings on this defense; and
 3. The matter is **REFERRED** to the Hon. Robert S. Ballou, United States Magistrate Judge, pursuant to 28 U.S.C. §636(b)(1)(B), for further proceedings on the issue of exhaustion of available administrative remedies, including an evidentiary hearing and preparation of a report, setting forth appropriate findings of fact, conclusions of law, and a recommended disposition of the exhaustion issue.

ENTER: This 19th day of March, 2013.

Danise L. Tread
Senior United States District Judge